



COMMISSION ACTIONS MARCH 2006

The following are the agenda items from the Commission's regular meeting held March 28, 2006 at Commission headquarters. The Commission's actions are in bold. Linked audio files are in the MP3 file format and require an installed media player such as [Windows Media Player](#) or [Real Player](#). Individual MP3 files are relatively large and may take 1 to 10 minutes to download depending on your internet connection. Note also that the audio links frequently begin with up to 10-15 seconds of the previous case; please listen closely to be sure you have selected the desired item.

The following are the agenda items from the Commission's regular February meeting held March 28, 2006 at Commission headquarters. The Commission's action is in bold.

1. MINUTES of previous meeting. **The Commission voted, 5-0, to approve the minutes with Associate Members Fox and McLeskey abstaining because they were absent from the February meeting.**
2. [PERMITS](#) (Projects over \$50,000 with no objections and with staff recommendation for approval). **The Commission voted, 7-0, to approve the page two permits with staff recommendations.**
3. CLOSED MEETING FOR CONSULTATION WITH OR BRIEFING BY COUNSEL. **The Commission met to discuss the court case of Williamson v. MRC.** [[AUDIO Items 1-3](#)]
4. CARL JOHNSON, #05-2704, requests authorization to construct a 13-foot by 34-foot open-sided boathouse adjacent to an existing private pier at his property situated along Kenny Creek in Mathews County. An adjoining property owner, as well as other property owners in the vicinity protest the project. **The Commission voted, 6-1, to approve the permit with staff recommendations.** [[AUDIO](#)]
5. LEE DEARMOND, #05-2356, requests after-the-fact authorization to retain 102 linear feet of vinyl sheet bulkhead installed and backfilled a maximum of two (2) feet channelward of a failing bulkhead at his property situated along Long Creek in the Cape Henry Shores subdivision in Virginia Beach. **The Commission voted, 7-0, to approve the after-the-fact permit with a civil charge of \$1,200 with triple permit fees and royalties.** [[AUDIO](#)]
6. SARAH A. MOORE, #05-2284, requests after-the-fact authorization to retain 87 linear feet of vinyl replacement bulkhead constructed approximately one (1) foot channelward of a deteriorated timber bulkhead adjacent to her property situated along Kibble Creek in Mathews County. **The Commission voted, 7-0, to approve the after-the-fact permit with a \$1,200 civil charge for the contractor with triple permit fees and royalties.** [[AUDIO](#)]

7. RICK LOY, Notice to Comply #05-15. Formal Restoration Hearing concerning the unauthorized placement of concrete blocks and the installation of a metal slide over State-owned submerged bottom, as well as the unauthorized expansion of an existing private, non-commercial pier at his property situated along Aquia Creek in Stafford County. **The Commission voted, 7-0, to require all blocks channelward of mean low water be removed within 30 days and agreed to accept and process an after-the-fact permit for a change in use of the pier structure to that of a community pier. After the required public interest review, this portion would have to be reconsidered by the Commission at a subsequent hearing. [[AUDIO](#)]**

8. PERRY ROBERTS, #05-2053, requests after-the-fact authorization to retain a 6-foot by 60-foot private, non-commercial pier, 1,116.5 square feet of decking platforms and finger piers, two (2) boat slips, and two (2) jet-ski slips with lifts adjacent to his property situated along Aquia Creek in Stafford County. **The Commission voted, 6-1, to approve the after-the-fact permit with staff recommendations requiring the removal of the L-head portion of the western part of the pier and associated pilings, along with a \$1,800 civil charge and triple permit fees. [[AUDIO](#)]**

9. KENNETH MORRIS, #05-1089, requests authorization to install two (2) 27-foot by 5-foot pre-cast concrete breakwaters located approximately 60 feet channelward of mean high water and to place 120 cubic yards of sand, as beach nourishment, landward of the breakwaters adjacent to his property situated along the North River near Ware Point in Gloucester County. **The Commission voted, 6-2, to approve the two breakwaters and agreed to a three-year study of their relative effectiveness. The study would be conducted at the expense of the permittee under a scientific protocol to be developed by the Virginia Institute of Marine Science. The results of that study would be brought back before the Commission at the end of the study period. For comparative analysis purposes, one of the breakwaters would include riprap armor along its seaward side and the study would compare and contrast the relative effectiveness of the two breakwaters. During the study period, and pending a favorable outcome therewith, no further pre-cast concrete breakwater structures would be entertained. [[AUDIO](#)]**

10. COLUMBIA GAS OF VIRGINIA #06-0045, requests after-the-fact authorization for the installation, by directional drill method, of a 4-inch natural gas line under Kingsland Creek, a tributary to the James River in Chesterfield County. The line replaces a previously exposed gas line in the same location. **The Commission voted, 8-0, to approve the after-the-fact permit with triple permit fees. [[AUDIO](#)]**

11. COWNOSE RAY ISSUES AND UPDATES: Marine Products Board and Virginia Institute of Marine Science. **The reports were presented and the Commission had an opportunity to taste fried and baked cownose ray. [[AUDIO](#)]**

12. PUBLIC COMMENTS: **There were four public comments and one waterman requested and was issued an hardship exemption for a black sea bass permit and the request was filled within the available poundage. [[AUDIO](#)]**

13. PUBLIC HEARING: Proposal to construct an artificial fishing reef in the Poquoson River and Mobjack Bay. **The Commission voted, 8-0, to approve the artificial fishing reef at the Mobjack Bay location, and voted 6-1-1 to table the Poquoson River request for one month, while more information is gathered regarding a possible alternative site location. [[AUDIO](#)]**

14. PUBLIC HEARING: Consideration of extending emergency regulation 4VAC20-530-10, "Pertaining to American Shad"

to establish a limited bycatch fishery on the spawning grounds of the James, Pamunkey, Mattaponi, and Rappahannock Rivers. **The Commission voted, 6-2, to approve the regulation amendment. [[AUDIO](#)]**

15. REQUEST FOR PUBLIC HEARING: Establish an NSSP requirement for human waste receptacle for shellfish harvesting vessels. **The Commission voted, 8-0, to go to public hearing at the April 25th meeting. [[AUDIO](#)]**

16. RECOMMENDATIONS of the Recreational Fishing Advisory Board. **The Commission voted, 8-0, to approve recommendations as submitted by staff. [[AUDIO](#)]**

17. REQUEST TO EXTEND CLAM SEASON IN THE JAMES RIVER. **The Commission voted 8-0, to approve the extension until April 30, 2006. [[AUDIO](#)]**

THE NEXT MEETING WILL BE HELD ON TUESDAY, APRIL 25, 2006

[PAGE 2 ITEMS](#) (Projects over \$50,000 with no objections and with staff recommendation for approval; **Approved in Item 2**)

2A. IMTT CHESAPEAKE, #06-0025, requests authorization to maintenance dredge 13,000 cubic yards of subaqueous bottom material and dredge 7,100 cubic yards of new, material to achieve maximum depths of –38 feet at their commercial loading facility on the Southern Branch of the Elizabeth River in Chesapeake. The dredged material will be transported to and disposed within the Craney Island Dredged Material Management Area. Recommend approval with the requirement for a pre-dredge conference and post-dredge bathymetric survey. Further recommend a royalty in the amount of \$3,195.00 for the new dredging of 7,100 cubic yards of material at a rate of \$0.45 per cubic yard.

2B. WILLIAM TINDER, #05-2406, requests authorization to construct and backfill 509 linear feet of timber bulkhead aligned a maximum of two (2) feet channelward of mean low water and the existing bulkhead at his property situated along the Lynnhaven River in the Great Neck Point subdivision in Virginia Beach. Recommend a royalty of \$1,018.00 for the filling of 1,018 square feet of State-owned submerged bottom at a rate of \$1.00 per square foot.

2C. DOMINION VIRGINIA POWER, #06-0144, requests authorization to install 2,090 linear feet of submerged electrical transmission line beneath the Chickahominy River immediately downstream of the existing Route 5 bridge in James City and Charles City County. Recommend approval with the assessment of a \$6,270.00 royalty for the encroachment beneath 2,090 linear feet of State-owned subaqueous bottom at a rate of \$3.00 per linear foot and an instream time-of-year work restriction of February 15 through June 15 to protect anadromous fish species.

2D. OLD POINT COMFORT, LLC, #05-0590, requests authorization to modify a previously Commission-approved community pier facility to increase the number of slips from 30 to 35 and decrease the size of an L-head to 51-foot by 20-foot adjacent to property situated along the Hampton River in Hampton.

2E. CORNELIUS G. ABEN, JR., ET AL, #05-2980, requests authorization to install 400 linear feet of stone riprap, the toe of which may extend a maximum of ten (10) feet channelward of a deteriorating bulkhead at his property situated along the Chesapeake Bay in the Peaceful Beach Estates subdivision of Northampton County.

2F. VIRGINIA ELECTRIC AND POWER, #05-2995, requests authorization to dredge up to 2,824 cubic yards of State-owned subaqueous bottomland as part of Consent Order with the Department of Environmental Quality, related to a coal ash discharge remediation plan, within Farrar Gut of the James River in Chesterfield County.

2G. MID-ATLANTIC BROADBAND, ET AL, #05-1060, requests authorization to modify a previously issued permit to add an additional crossing of a fiber optic line across the Staunton River, by bridge attachment method, along Route 360, in Halifax and Charlotte Counties. Recommend a royalty in the amount of \$780.00 for the encroachment under 260 feet of State-owned bottom at a rate of \$3.00 per linear foot.

2H. ARMY CORPS OF ENGINEERS, #05-0338, requests a modification to the current February 15 through September 30 time-of-year restriction for their permit which authorizes the overboard placement of dredged material at Tribell Shoal in the James River. Due to a lack of shellfish resources in the project area, staff recommends approval of a new February 15 through June 15 time-of-year restriction which will protect anadromous fish species.

2I. BAE SYSTEMS NORFOLK SHIP REPAIR, #06-0313, requests authorization to maintenance dredge on an as needed basis up to a maximum of 150,000 cubic yards of material and conduct 33,000 cubic yards of new dredging from a 3,600-foot by 800-foot area to maintain maximum permitted depths ranging from -64 feet to - 25 feet below mean low water adjacent to their property situated along the Southern Branch of the Elizabeth River in Norfolk. All dredged material will be transported to and disposed at the Craney Island Dredged Material Management Area. Staff recommends a pre-dredge conference and the required submittal of a post-dredge bathymetric survey for compliance monitoring. Staff recommends a royalty in the amount of \$14,850.00 for the dredging of 33,000 cubic yards at a rate of \$0.45 per cubic yard.

2J. BAE SYSTEMS NORFOLK SHIP REPAIR, #06-0344, requests authorization to repair and expand Pier 3 and associated fender systems resulting in new total dimensions of 705 feet long on the north side and 506 feet long on the south side by 58.5 feet wide, impacting an additional 5,300 square feet of State-owned submerged lands, adjacent to their property situated along the Southern Branch of the Elizabeth River in Norfolk.

